

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ROBERT HUTTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:11-CV-2025-SNLJ
	)	
JAMES HURLEY,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon review of petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 [Doc. #1].

**The petition**

Petitioner asserts that he received an enhanced sentence under Missouri Revised Statute § 558.018. He claims that the enhancement was unconstitutional, because he was denied the proper hearings, and he was sentenced by the state trial judge, "without allowing jury input."

**Discussion**

Petitioner labeled his suit as one brought under § 2241; however, because he is in custody pursuant to a state court judgment, the only habeas corpus vehicle available to him to attack his present confinement is 28 U.S.C. § 2254. See Crouch v. Norris, 251 F.3d 720, 722-23 (8th Cir. 2001) (state prisoners "can only obtain habeas relief through § 2254, no matter how

[their] pleadings are styled"). For this reason, this Court is unable to grant petitioner a writ of habeas corpus under § 2241.

Although the Court is required to liberally interpret prisoner petitions, Haines v. Kerner, 404 U.S. 519, 520 (1972), construing the instant action as one arising under § 2254 is problematic. A review of this Court's records indicates that petitioner has already sought and been denied § 2254 relief concerning the underlying conviction and sentence. See Hutton v. Goose, No. 4:97-CV-406-DJS (E.D. Mo.).<sup>1</sup> This Court lacks jurisdiction to entertain a second or successive § 2254 petition brought by the petitioner unless the Eighth Circuit Court of Appeals has authorized it. See 28 U.S.C. § 2244(B) (3) (A). There is no indication that the Eighth Circuit has authorized petitioner to file a second petition. Therefore, the instant action, if re-characterized, would result in the dismissal of this action, because the Court would not have jurisdiction over the successive § 2254 action.

In accordance with the foregoing,

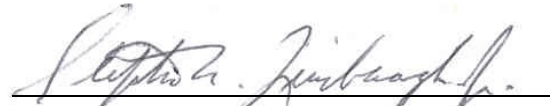
**IT IS HEREBY ORDERED** that petitioner's petition for habeas corpus relief pursuant to 28 U.S.C. § 2241 [Doc. #1] is **DENIED**.

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<sup>1</sup>The Court notes that on September 25, 2006, petitioner filed a 28 U.S.C. § 2241 action that is very similar to the case at bar. See Hutton v. Moore, 4:06-CV-1416-CEJ (E.D. Mo.). The Court dismissed that case on the ground that § 2241 relief was unavailable to petitioner. The Court further noted that liberally construing the action under § 2254 would result in the dismissal of the case as successive.

A separate Order of Dismissal shall accompany this  
Memorandum and Order.

Dated this 31st day of January, 2012.

  
**UNITED STATES DISTRICT JUDGE**